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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/764,778

01/17/2001

Jean-Yves Sireau

63204/1:1

7436

3528 7590 01/03/2007

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EXAMINER

PATEL, JAGDISH

ART UNIT

PAPER NUMBER

3693

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/764,778

Applicant(s)

SIREAU, JEAN-YVES

Examiner

JAGDISH PATEL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-22, 24-28, 30-36 and 50-113 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19, 21, 22, 24-28, 30-34, 36 and 50-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/17/2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This communication is in response to amendment filed 6/30/06.

Response to Amendment

2. Claims have been amended per request. Claims 19-22, 24-28, 30-36 and 50-113 are currently pending.

Response to Arguments

3. The prior art rejection of claims 19-22, 24-28, 30-36 and 50-113 have been withdrawn in response to DECLARATION OF JEAN-YVES SIREAU PURSUANT TO 37 CFR § 1.132. The pending claims, however, fail to meet the statutory requirements under current guidelines issued after

35 USC 101 Rejection

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 19, 21-22, 24-28, 30-34, 36 and 50-64 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The invention may be statutory subject matter if the invention as a whole produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial*

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Group, Inc. 149 F.3d 1368, 1973, 47 USPQ2d (BNA) 1596 (Fed. Cir. 1998). [*“Usefulness”*

may be evidenced by, but not limited to, a specific utility of the claimed invention.

“Concreteness” may be evidenced by, but not limited to, repeatability and/or

implementation without undue experimentation. “Tangibility” may be evidenced by, but

not limited to, a real or actual effect.].

In the present case, method claim 19 fails to produce a tangible result because the result of the calculating step (“fixed-odds price for the bet”) is not conveyed to the user or the user terminal. The interpretation of the tangibility in the context of the present invention is that the claimed invention must provide the fixed-odds price to the user who exists in the real world and can use this information to place a bet.

The examiner has discussed this deficiency with Attorney Ferris on 12/19/06 and suggested that amendment, which provides for communicating the calculated fixed-odds price to the user (e.g. claim 20) would suffice to overcome the issue of (lack of) tangibility. However, no agreement has been reached over the telephone.

Note that this rejection does not apply to the claims wherein the calculated fixed-odds price for the bet is communicated to the user in some form. (examples, 20, 35, 66-98 etc.) and the system claims 65, 107-113, which recites specific structure or machine). Claims 62-64 do not recite a specific machine but computer programs codes, which can be executed on a any computer that carry out the process of method recited in claim 19. Accordingly claims 62- 64 have been analyzed as reciting the underlying process.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748.

The examiner can normally be reached on **800AM-630PM Mon-Tue and Thu.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **KRAMER JAMES A** can be reached on **(571)272-6783**. The fax phone number for the organization where this application or proceeding is assigned is 517-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jagdish N. Patel

(Primary Examiner, AU 3693)

12/18/06